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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,410	08/28/2006	Kevin Andrew Mason	330-038	3981
24902	7590	12/03/2008		
ANTHONY R. BARKUME 20 GATEWAY LANE MANORVILLE, NY 11949			EXAMINER LE, DAVID D	
			ART UNIT 3655	PAPER NUMBER
			MAIL DATE 12/03/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/598,410

**Applicant(s)**

MASON, KEVIN ANDREW

**Examiner**

David D. Le

**Art Unit**

3655

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 32-59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 32-59 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 August 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date 08/28/06
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This is the first Office action on the merits of Application No. 10/598,410, filed on 28 August 2006. Claims 32-59 are pending.

### **Documents**

2. The following documents have been received and filed as part of the patent application:
  - Information Disclosure Statement, received on 08/28/06
  - Copy of Foreign Priority Document, received on 08/28/06

### ***Drawings***

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because the reference characters have been used to designate more than one parts. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

5. The abstract of the disclosure is objected to because it contains legal phraseology, "means". Correction is required. See MPEP § 1826.

6. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without

underlining or bold type, as a section heading. If no text follows the section heading, the phrase “Not Applicable” should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A “Sequence Listing” is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required “Sequence Listing” is not submitted as an electronic document on compact disc).

7. The disclosure is objected to because the arrangement of the disclosure fails to comply with PCT Administrative Instruction Section 204. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. **Claims 32-39, 43, 45-47, 49, 51, 53, and 54-59 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

**Claim 32:**

- Line 2 recites the limitation "the differential unit". There is insufficient antecedent basis for this limitation in the claim.

**Claim 35:**

- Lines 2-3 recite the limitation "the differential pan area". There is insufficient antecedent basis for this limitation in the claim.

**Claim 37:**

- Line 2 recites the limitation "the differential carrier". There is insufficient antecedent basis for this limitation in the claim.

Claim 43:

- Line 4 recites the limitation "the sun gear". There is insufficient antecedent basis for this limitation in the claim.

Claim 45:

- Lines 2-3 recite the limitation "the differential unit bearing cap". There is insufficient antecedent basis for this limitation in the claim.
- Line 3 recites the limitation "the axle casing". There is insufficient antecedent basis for this limitation in the claim.
- Lines 3-4 recite the limitation "the differential pan area". There is insufficient antecedent basis for this limitation in the claim.
- Line 4 recites the limitation "the differential pan mounting ring". There is insufficient antecedent basis for this limitation in the claim.

Claim 46:

- Lines 2-3 recite the limitation "the differential lock assembly". There is insufficient antecedent basis for this limitation in the claim.

Claim 47:

- Lines 1-2 recite the limitation "the axle casing material". There is insufficient antecedent basis for this limitation in the claim.

Claim 49:

- Lines 2-3 recite the limitation "the differential pan mounting ring bolts". There is insufficient antecedent basis for this limitation in the claim.

Claim 51:

- Lines 3-4 recite the limitation "the operational status". There is insufficient antecedent basis for this limitation in the claim.

Claim 53:

- Line 2 recites the limitation "the shaped ring". There is insufficient antecedent basis for this limitation in the claim.

Claim 54:

- Line 5 recites the limitation "the existing differential pan". There is insufficient antecedent basis for this limitation in the claim.
- Line 6 recites the limitation "the existing components". There is insufficient antecedent basis for this limitation in the claim.
- Line 9 recites the limitation "a locking component". It is unclear whether this newly recited limitation "a locking component" is different from the one, which is first recited on lines 7-8 of claim 54.
- Line 14 recites the limitations "its". It is unclear what "its" is referring to.



Claim 56:

- Line 2 recites the limitation "the rear of the axle assembly". There is insufficient antecedent basis for this limitation in the claim.

Claim 57:

- Line 2 recites the limitation "the shaped ring". There is insufficient antecedent basis for this limitation in the claim.
- Lines 2-3 recite the limitation "the half shaft". There is insufficient antecedent basis for this limitation in the claim.
- Line 3 recites the limitation "the locking device". There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. **Claims 32-59 are rejected under 35 U.S.C. 102(b) as being anticipated by U. S.**

**Patent No. 5,759,129 to Zentmyer et al.**

Claims 32-59:

**Zentmyer** (i.e., Fig. 19; column 6, line 53 – column 16, line 67) discloses a locking differential actuator assembly comprising:

- An axle (i.e., Fig. 19, element 40a or 40b);
- A differential unit (i.e., Fig. 19, element 90);
- A locking device (i.e., Fig. 19, element 200);
- A differential pan (i.e., Fig. 19, 58);
- Wherein the differential unit and the locking device are inside the differential pan (i.e., Fig. 19);
- Wherein the differential pan includes an extended area to accommodate part of the locking device (i.e., Fig. 19); and
- Wherein the locking device includes a fork and a sliding dog gear located in a differential carrier (i.e., Fig. 19.

### *Conclusion*

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Ohkubo (U. S. Patent No. 4,873,892) teaches a power transfer device, as shown in Fig. 1.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David D. Le whose telephone number is 571-272-7092. The examiner can normally be reached on Mon-Fri (0900-1730).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David D. Le/  
Primary Examiner, Art Unit 3655  
11/24/2008

ddl